



Center for Health, Environment & Justice

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U.S. House of Representatives Subcommittee on Commerce, Trade and Consumer Protection of the Committee on Energy and Commerce

Hearing on Safety of Phthalates and Bisphenol-A in Everyday Consumer Products

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Summary of Testimony

Phthalates in children's vinyl toys: Phthalates are chemical substances that make PVC (polyvinyl chloride) plastic toys and other PVC products soft and flexible. When children play with or chew on PVC toys, phthalates can leach out of these products. Phthalates have been linked to reproductive problems including shorter pregnancy duration and premature breast development in girls and sperm damage and impaired reproductive development in males.

Safer products are available: Safer cost-effective alternatives exist such as PVC-free toys that are manufactured without phthalates as well as phthalate-free plasticizers. For example, Danisco, one of the largest manufacturers of food additives in the world, introduced a phthalate alternative for toys and other products that has been approved for use in the EU and the U.S.

Phthalates restricted around the world: In response to the health hazards posed by phthalates in children's toys, the European Union and many countries around the world have restricted the use of phthalates in children's toys. Yet, these chemicals continue to be used in our children's toys and baby products here in the United States, making our country literally a dumping ground for potentially unsafe children's products. The U.S. is one of the few developed countries with no governmental limits on phthalates in toys aimed at young children.

The Feinstein amendment would not have adverse effects on U.S. manufacturing: 95% of all toys are manufactured outside of the U.S. - 85% in China and the remaining 10% in Taiwan, Japan or the Philippines. The Feinstein Amendment won't disrupt the marketplace in the U.S. because we're not exporting, or manufacturing very many toys in the U.S. compared to the quantities manufactured in China.

Many leading toy companies and retailers are already restricting these chemicals: Ten years ago Mattel, Hasbro and Toys“R”Us -- US based multinational companies - announced they would globally meet the EU standards. Over the past two years, some of the United States' largest retailers including Wal-Mart, Target, Sears Holdings (Sears and Kmart), and Toys“R”Us have announced major policies to phase out or restrict toxic chemicals such as phthalates and/or PVC in children's toys and infant products.

Background on BPA: Bisphenol A is a chemical that's used to manufacture polycarbonate plastic. BPA is used to make polycarbonate consumer products including baby bottles, reusable water bottles, and infant formula containers. Studies conducted on laboratory animals and cell cultures have linked low doses of BPA to obesity, diabetes, thyroid disease, breast cancer, prostate cancer and other illnesses.

Canadian ban on bisphenol A: In April 2008, the federal government of Canada proposed to designate BPA as “toxic” under the Canadian Environmental Protection Act which will lead to a ban on BPA baby bottles and other restrictions.

Retailer response to Canadian government announcement: Since the Canadian government has proposed to designate BPA as “toxic”, there's been a major market movement and backlash away from BPA among baby and water bottle companies as well as retailers in both the U.S. and Canada. This includes Wal-Mart, CVS, Toys“R”Us, Nalgene, Playtex, Sears Canada, Home Depot Canada, and many other companies.

U.S. state action on Phthalates and BPA: In the absence of federal action, an increasing number of U.S. states are introducing legislation to ban phthalates and bisphenol A.

Mr. Chairman, distinguished Members of the Subcommittee, thank you for this opportunity to testify on the safety of phthalates and bisphenol A in everyday consumer products. My name is Stephen Lester and I'm the Science Director for the Center for Health, Environment and Justice (CHEJ). CHEJ, a national environmental health organization founded in 1981 by Love Canal community leader Lois Gibbs, assists people to fight for justice, become empowered to protect their communities from environmental threats and leads national environmental health campaigns. I thank the members of the subcommittee for this opportunity to testify today.

My testimony today will focus on the growing market shift away from phthalates and bisphenol A in consumer products such as children's toys, as well as the increasing attention these chemicals are receiving from U.S. states and internationally. Over the past-three years, we have worked with leading U.S. retailers to phase out phthalates and BPA in consumer products.

Phthalates in Children's Toys & Other Consumer Products

Phthalates in children's vinyl toys: Phthalates are chemical substances that make PVC (polyvinyl chloride) or vinyl plastic soft and flexible. Between eighty to ninety percent of all phthalates are used to soften or plasticize PVC products. Phthalates are also used in other consumer products such as cosmetics, although again the vast majority are uniquely used to soften vinyl plastic products. Among many other things, phthalates are used in soft PVC toys and other baby products, such as teething rings, rubber duckies, and bath books. They're also used in other products such as vinyl shower curtains, flooring, wall coverings, medical devices (i.e. IV bags) and many other PVC products. Phthalates can leach out of these toys and other products over time, making children's natural behavior - exploring their world by putting things in their mouths - especially concerning.

The dangers of phthalates: Phthalates have been linked to reproductive problems including shorter pregnancy duration and premature breast development in girls and sperm damage and impaired reproductive development in males. They've been shown to be harmful at even low levels of exposure. The many small doses of phthalates from a myriad of products adds up to a much bigger exposure, particularly since it's understood that different phthalates in combination can have additive or synergistic effects. Additionally, the timing of chemical exposure to infants and children, who are changing and developing every day, may be as important as the dose.

Safer products are available: Safer cost-effective alternatives exist such as PVC-free toys that are manufactured without phthalates as well as phthalate-free plasticizers.

You can make soft toys without PVC plastic and without phthalates. Safer alternatives to PVC baby / children's products and toys include toys made out of biobased plastics, polyethylenes, polypropylenes, thermoplastic elastomers, and ethylene vinyl acetate (EVA) that are free of phthalates. These plastics do not require the use of phthalates since some are naturally softer, but many PVC products cannot be made without a plasticizer such as phthalates. The PVC-free plastics listed above also pose fewer lifecycle hazards because they are not chlorinated and do not release dioxins and furans during manufacture and disposal and are manufactured with chemicals that are less hazardous.

Additionally, you can manufacture PVC with non-phthalate plasticizers that have been used to soften toys for years. For example, a Danish company Danisco, one of the largest manufacturers of food additives in the world, introduced a phthalate alternative for toys and other products that has been approved for use in both the EU and the U.S.

Phthalates restricted around the world: In response to the health hazards posed by phthalates in children's toys, the European Union and many countries around the world have restricted the use of phthalates in children's toys. The European Union has banned DEHP, DBP, and BBP in all toys and childcare articles and banned DINP, DIDP, and DNOP in toys and child care articles that can be put in the mouth. Prior to the EU's permanent ban, the following countries also had banned phthalates in children's toys: Argentina, Austria, Cyprus, Czech Republic, Denmark, Fiji, Finland, Germany, Greece, Italy, Japan, Mexico, Norway, and Sweden. In many other countries, governments have requested voluntary industry action to remove phthalates. In some cases industry has voluntarily removed phthalates, and governments have issued health advisories related to phthalates.

In response, the major multinational toy manufacturers responded by reformulating toys to remove toxic phthalates. Yet, these chemicals continue to be used in our children's toys and baby products here in the United States, making our country literally a dumping ground for potentially unsafe children's products. This double standard is unacceptable, and may be putting children at risk of toxic chemical exposure. The U.S. is one of the few developed countries with no governmental limits on phthalates in toys aimed at young children.

The Feinstein amendment would not have adverse effects on U.S. manufacturing: Rep. Diane Feinstein introduced an amendment to the CPSC reform bill that would ban phthalates in children's toys sold in the U.S. Because so few toys are manufactured here in the US - 85% are of the toys sold in the U.S. are manufactured in China and the remaining 10% in Taiwan, Japan or the Philippines – this amendment would not have adverse effects on U.S. manufacturing. As evidenced by last year's wave of recalls on lead-contaminated toys, these countries have poor oversight of toxic chemicals such as lead and phthalates in children's products. Only a small percentage of high-end specialty toys are actually manufactured in

either the U.S. or Europe. The Feinstein Amendment won't disrupt the marketplace in the U.S. because we're not exporting, or manufacturing very many toys in the U.S. compared to the quantities manufactured in China. Meanwhile, the rest of the developed world banned phthalates from toys starting a decade ago and the toy-manufacturing world responded by reformulating toys to remove toxic phthalates.

As a result, Chinese manufacturers are now making one set of "safe toys" for EU consumption and the same manufacturers are making "toxic toys" that they are dumping on the U.S. because no one else will buy them. So while transnational companies in the U.S. can demand their manufacturing plants in China build phthalate-free toys, companies selling only in the U.S. have no pressure to do so. A simple internet search reveals a long list of manufacturers – some of which are producing phthalate-free toys that are compliant with the EU directive, and some of which are not– proving it is possible for the very same manufacturer to produce a toy with phthalates or one without phthalates. Given the number of phthalate free toy manufacturers that have emerged throughout the world one could easily argue we've not only not seen a market disruption, but instead the opposite has occurred: the world market has been stimulated to produce safe alternatives. For instance, since the EU banned phthalates from toys, toy sales have increased, at a pace that exceeds their growth in the United States. Banning phthalates in the U.S. could potentially create new research and job opportunities in the field of green chemistry to produce safe alternatives.

Many leading toy companies are already restricting these chemicals: A number of leading baby and children's toys manufactures such as Brio, Chicco, Evenflo, First Years, Gerber, International Playthings, Lamaze Infant Development, Lego Systems, Sassy, and Tiny Love have committed to phase out all PVC toys including and prioritizing those containing phthalates. Other toy manufacturers such as Discovery Toys and Manhattan Baby have committed to

phase out phthalates and some PVC toys. Additionally, many of the largest toy companies including Hasbro and Mattel are in compliance with the European Union ban on phthalates in children's toys both globally and in the United States. Ten years ago Mattel, Hasbro and Toys“R”Us -- US based multinational companies - announced they would globally meet the EU standards.

Retailers are phasing out toxic chemicals in toys: European retailers and manufacturers have been phasing out phthalates and other toxic chemicals in toys for many years. Over ten years ago, European retailer Ikea phased out all PVC toys including those containing phthalates and switched to safer plastics.

We are now beginning to see similar movement in the United States. Over the past two years, some of the United States' largest retailers including Wal-Mart, Target, Sears Holdings (Sears and Kmart), and Toys“R”Us have announced major policies to phase out or restrict toxic chemicals such as phthalates and/or PVC in children's toys and infant products. These initiatives are summarized below.

Toys“R”Us' phthalate and PVC policy: In 2008, Toys“R”Us announced that by the end of 2008, all juvenile products must be produced without the addition of phthalates. The company is reducing PVC use and is moving towards a goal of offering PVC-free toys, toys that would also be phthalate-free.

Target's phthalate and PVC policy: Target has agreed to systematically reduce its use of PVC and phthalates in children's products. The company has committed to phase out phthalates in most of their toys by Fall 2008. They eliminated phthalates in all baby-changing tables by January 2008. The company is reducing PVC (and therefore phthalates) found in many of its

owned brand products including infant products, children's toys, shower curtains, packaging and fashion accessories. Target children's eating utensils and lunchboxes are now PVC-free (and therefore phthalate-free). Target baby bibs became PVC-free (and therefore phthalate-free) as of January 2008.

Wal-Mart's phthalate and PVC policy: Wal-Mart most recently announced they are requiring suppliers to significantly limit phthalates in children's products. They have also required suppliers to phase out PVC (and therefore phthalates) in children's lunch boxes, baby bibs, packaging, and beginning to address PVC used in building materials and electronics. The company also supports an industry-wide standard to remove PVC (and therefore phthalates) from all products intended for kids.

Sears and Kmart's PVC policy: Sears Holdings (Sears and Kmart) has announced it is working to reduce and phase out PVC (and therefore phthalates) in its packaging and merchandise including children's toys. Sears is working to identify safer, more sustainable and cost-effective alternatives to PVC and incorporate them into the design and manufacturing process for their private label merchandise and packaging.

Phthalates and cosmetics: Over five hundred cosmetics companies have pledged to get toxic chemicals such as phthalates out of cosmetics. Some phthalates have already been banned in cosmetics in the European Union, but like toys, are still legal in the U.S.

Phthalates and health-care: A growing number of hospitals are undertaking efforts to reduce phthalates and PVC use in their facilities. Health care organizations are changing their purchasing practices to eliminate phthalates including Kaiser Permanente, Catholic Healthcare

West, Consorta, and Premier. From 2010, all medical devices in the European Union will have to be labeled if they contain the phthalate DEHP.

U.S. state action on phthalates: In the absence of federal action, an increasing number of U.S. states are introducing legislation to ban phthalates in children's toys. California became the first state in the nation last year to ban phthalates in toys, recently the states of Washington and Vermont followed suit. These states are not alone. Similar legislation has been introduced in 2008 in other states including Connecticut, Hawaii, Maryland, Illinois, Massachusetts, Minnesota, New Jersey, New York, and West Virginia.

Global chemical companies are shutting down phthalate production: In response to this major market shift, even chemical manufacturers are phasing out phthalate production. For example, the German chemical giant BASF shut down its European DEHP production after the EU ban in 2005 became permanent. Now, BASF produces a new and profitable plasticizer line called DINCH - after spending five million euros on safety testing - which can be used in toys, food-contact materials and medical applications. In the U.S. however, BASF continues to manufacture DEHP in two facilities in Pittsburgh, PA and Texas City, Texas for consumer product uses in the American market.

Growing support for banning phthalates in the U.S. Eighty-seven legislators from 28 states—all members of the National Caucus of Environmental Legislators—have signed on to a May 19 letter to the conferees in support of the Feinstein amendment. In addition, 60 organizations have stated their support for the amendment in a May 27 letter to legislators.

The response from the U.S. chemical industry: Exxon Mobil, who manufactures DINP, has spent more than \$3 million to lobby against both the proposed federal – and state – bans on

phthalates in children's toys - and other issues - in the first three months of 2008. Exxon Mobil alone has four outside lobbying firms registered to fight the phthalates ban. The irony here is that Exxon Chemicals manufactures products that are phthalate free -- metallocene polyolefins.

Bisphenol A (BPA) in Consumer Products

Background on BPA: Bisphenol A is a chemical that's used to manufacture polycarbonate plastic. BPA is used to make polycarbonate consumer products including baby bottles, reusable water bottles, toddler sippy cups, infant formula containers, food-can linings, dental sealants, compact discs, DVDs, and other consumer products.

Dangers of BPA: BPA is a synthetic sex hormone that's been linked to serious diseases at low doses of exposure. Studies conducted on laboratory animals and cell cultures have linked low doses of BPA to obesity, diabetes, thyroid disease, breast cancer, prostate cancer and other illnesses. BPA exposure is widespread and has been found in 95% of Americans tested including in breast milk.

Canadian ban on bisphenol A: In April 2008, the federal government of Canada proposed to designate BPA as "toxic" under the Canadian Environmental Protection Act. In declaring BPA toxic, government officials expressed concern that infants are exposed to bisphenol A at levels that could cause health effects. They are proposing a number of actions: to ban polycarbonate baby bottles; to develop stringent migration targets for bisphenol A in infant formula cans; to work with industry to develop alternative food packaging and develop a code of practice. Canada is now the first national jurisdiction to consider designating bisphenol A as 'toxic' to human health and the environment, and to begin implementing regulation on the use of this

chemical. In the fall 2008, the government will publish a final assessment recommendation and a risk management approach to regulating bisphenol A.

Retailer response to Canadian government announcement: Since the Canadian government proposed to designate BPA as “toxic”, there’s been a major market movement and backlash away from BPA among baby and water bottle companies as well as retailers in both the U.S. and Canada. These actions are summarized below.

Wal-Mart, CVS, Toys“R”Us phasing out BPA: U.S. retailers Wal-Mart, CVS, and Toys“R”Us have announced plans to phase out BPA-contaminated baby bottles.

Playtex eliminates BPA-contaminated baby bottles: Playtex has announced they will replace infant feeding products made with BPA with a BPA-free material by the end of 2008.

Nalgene and BPA: Nalgene, a company that has been a staunch defender of BPA in recent years, announced they will phase out BPA in water bottles they sell and has already begun to sell many BPA-free safer products.

Canadian retailers and BPA: In December 2007, two major Canadian-based retailers, Mountain Equipment Co-op and Lulemon, announced they would stop selling BPA-laden water bottles. In 2008, Sears Canada, Wal-Mart Canada, Rexall Pharmacies, London Drugs and Home Depot Canada announced they would remove plastic baby bottles, reusable water bottles and other products made with bisphenol A (BPA) from their shelves. Sears Canada announced it has removed from sale baby products and sport bottles which contain bisphenol A and are designed to come into direct contact with the mouth. Other Canadian companies removing

BPA-contaminated products include Canadian Tire, the Forzani Group Ltd., and Hudson's Bay Company.

Canadian grocery distributors and BPA: Members of the Canadian Council of Grocery Distributors also announced they will stop selling all polycarbonate baby bottles in April 2008. Members include Canada Safeway Limited, Colabor, L.P., Colemans Food Centre, Co-op Atlantic, Costco Wholesale Canada Ltd., Flanagan Foodservices Inc., Federated Co-operatives Limited, GFS Canada Company, H.Y. Louie Co Limited, Jean-Paul Beaudry Ltd., the Kitchen Table Incorporated, Loblaw Companies Limited, METRO INC., Neate Roller Limited, Sobeys Inc., Summit-Cambridge, SYSCO Foodservices of Canada Inc., Tannis Food Distributors, Thrifty Foods – Sobeys Inc., and Wallace & Carey Inc.

Whole Foods cuts BPA Baby bottles: Whole Foods, the nation's largest natural foods chain, stopped selling baby bottles and child drinking cups made from polycarbonate plastic.

Eden Foods eliminating BPA in food can linings: In 1999, the health foods company Eden Foods phased out the use of BPA in some of their canned foods. The company has eliminated BPA in cans for products such as beans, however they are still searching for alternatives for cans that hold tomatoes.

U.S. state legislative initiatives on BPA: A growing number of U.S. states have introduced legislation to ban bisphenol A. These include California, Connecticut, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

EU and BPA: In response to the growing scientific consensus that BPA is bad for our health, and recent market shifts, the European Union's food safety agency is planning on reevaluating the safety of BPA in food and beverage applications.

Conclusion

Major retailers and manufacturers in the United States and around the world are already phasing out these unnecessary toxic chemicals in children's and infant toys in favor of safer products. These new market trends should be reinforced by federal legislation such as the Feinstein Amendment, to ban phthalates in children's products. Legislation introduced by Senator Schumer (D-NY) to ban bisphenol A should also be supported. Additionally, more comprehensive legislation is urgently needed to reform our nation's outdated chemical policies and get toxic chemicals out of everyday consumer products such as children's toys and baby bottles.

Thank you for the opportunity to testify.

About The Center for Health, Environment & Justice

CHEJ mentors a movement building healthier communities by empowering people to prevent harm through programs focusing on different types of environmental health threats. CHEJ works with communities to empower groups by providing the tools, direction, and encouragement they need to advocate for human health, to prevent harm and to work towards environmental integrity. Following her successful effort to prevent further harm for families living in contaminated Love Canal, Lois Gibbs founded CHEJ to continue the journey. CHEJ has assisted over 10,000 groups nationwide.

Currently, CHEJ is mentoring community groups in several states including Florida, Maryland, New Jersey, New York, North Carolina and Ohio. Details on CHEJ's efforts to help families and communities prevent harm can be found at <http://www.chej.org>.